

From: dave@bfnet.com@inetgw
To: Microsoft ATR
Date: 12/14/01 12:45pm
Subject: Argument against the Consent Decree

As a member of the computer industry, I am very familiar with the adverse effects of Microsoft's monopoly. Contrary to the statements of the US Department of Justice in its impact statement discussing the Consent Decree, the remedies settlement embodied in the Consent Decree fails to achieve the ends mandated by the Court for the following reasons:

- * it fails to deny Microsoft the fruits of its statutory violations,
- * it fails to ensure that competition is likely to result,
- * it was an agreement reached for the purpose of expediency, not for ensuring an adequate remedy and,
- * it establishes an untenable precedent for future antitrust cases.

The Federal Government has already found Microsoft in violation, but this settlement contains no penalties and actually advances Microsoft's operating system monopoly. A just penalty would at barest minimum include three additional features:

- * Any remedy seeking to prevent an extension of Microsoft's monopoly must place Microsoft products as extra-cost options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Microsoft software and one without, a computer seller must offer the software without the computer (which would prevent computer makers from saying that the difference in price is only a few dollars). Only then could competition come to exist in a meaningful way.
- * The specifications of Microsoft's present and future document file formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement.
- * Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet.

If the national interest is at issue, as the judge has suggested, we must stop the growth of Microsoft's operating system monopoly. The Center for Strategic and International Studies has pointed out that the use of Microsoft software actually poses a national security risk.

This case is of great importance not only to national security, but to the

US economy and future competitiveness of US industry. We must take the time to craft a careful and deliberate remedy for the sake of our nation's health.

Sincerely,
David Michael Wuertele
Palo Alto, CA